

VERNON'S TEXAS STATUTES AND CODES ANNOTATED
PENAL CODE
TITLE 9. OFFENSES AGAINST PUBLIC ORDER AND DECENCY
CHAPTER 42. DISORDERLY CONDUCT AND RELATED OFFENSES

Section 42.09. Cruelty to Animals

(a) A person commits an offense if the person intentionally or knowingly:

- (1) tortures an animal;
- (2) fails unreasonably to provide necessary food, care, or shelter for an animal in the person's custody;
- (3) abandons unreasonably an animal in the person's custody;
- (4) transports or confines an animal in a cruel manner;
- (5) kills, seriously injures, or administers poison to an animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent;
- (6) causes one animal to fight with another;
- (7) uses a live animal as a lure in dog race training or in dog coursing on a racetrack;
- (8) trips a horse;
- (9) injures an animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent; or
- (10) seriously overworks an animal.

(b) It is a defense to prosecution under this section that the actor was engaged in bona fide experimentation for scientific research.

(c) For purposes of this section:

- (1) "Abandon" includes abandoning an animal in the person's custody without making reasonable arrangements for assumption of custody by another person.
- (2) "Animal" means a domesticated living creature and wild living creature previously captured. "Animal" does not include an uncaptured

wild creature or a wild creature whose capture was accomplished by conduct at issue under this section.

(3) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(4) "Custody" includes responsibility for the health, safety, and welfare of an animal subject to the person's care and control, regardless of ownership of the animal.

(5) "Necessary food, care, or shelter" includes food, care, or shelter provided to the extent required to maintain the animal in a state of good health.

(6) "Trip" means to use an object to cause a horse to fall or lose its balance.

(d) An offense under Subsection (a) (2), (3), (4), (9), or (10) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section.

(e) It is a defense to prosecution under Subsection (a)(5) that the animal was discovered on the person's property in the act of or immediately after injuring or killing the person's goats, sheep, cattle, horses, swine, or poultry and that the person killed or injured the animal at the time of this discovery.

(f) It is a defense to prosecution under Subsection (a)(8) that the actor tripped the horse for the purpose of identifying the ownership of the horse or giving veterinary care to the horse.

(g) An offense under Subsection (a) (1), (5), (6), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section.

(h) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1) use of an animal if that use occurs solely for the purpose of:

(A) fishing, hunting, or trapping; or

(B) wildlife control as regulated by state and federal law; or

(2) animal husbandry or farming practice involving livestock.

(g)* It is a defense to prosecution for an offense under this section that the person had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal as defined by Section 822.101, Health and Safety Code.

*House Bills 653 and 1362 were both passed in 2001, and both contained a new provision of Penal Code § 42.09 labeled subsection "(g)." Both provisions are law, although the Texas Department of Health cannot tell how the two subsections with identical letters may be referred to in printed versions of the statutes.

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 917, ch. 342, § 12, eff. Sept. 1, 1975; Acts 1985, 69th Leg., ch. 549, § 1, eff. Sept. 1, 1985; Acts 1991, 72nd Leg., ch. 78, § 1, eff. Aug. 26, 1991. Renumbered from § 42.11 and amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994.

Amended by Acts 1995, 74th Leg., ch. 318, § 15, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1283, § 1, eff. Sept. 1, 1997.

Legislative update (HB 653: effective September 1, 2001) inserted by the Texas Department of Health, Zoonosis Control Division: Section 42.09 (a), (c), (d), (g), and (h)

Legislative update (HB 1362: effective September 1, 2001) inserted by the Texas Department of Health, Zoonosis Control Division: Section 42.09 (g)

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Section 42.10. Dog Fighting

- (a) A person commits an offense if he intentionally or knowingly:
- (1) causes a dog to fight with another dog;
 - (2) for a pecuniary benefit causes a dog to fight with another dog;
 - (3) participates in the earnings of or operates a facility used for dog fighting;
 - (4) uses or permits another to use any real estate, building, room, tent, arena, or other property for dog fighting;
 - (5) owns or trains a dog with the intent that the dog be used in an exhibition of dog fighting; or
 - (6) attends as a spectator an exhibition of dog fighting.
- (b) In this section, "dog fighting" means any situation in which one dog attacks or fights with another dog.
- (c) A conviction under Subdivision (2), (3), or (4) of Subsection (a) may be had upon the uncorroborated testimony of a party to the offense.
- (d) It is a defense to prosecution under Subdivision (1) or (2) of Subsection (a) that the actor caused a dog to fight with another dog to protect livestock, other property, or a person from the other dog, and for no other purpose.
- (e) An offense under Subdivision (1) or (5) of Subsection (a) is a Class A misdemeanor. An offense under Subdivision (2), (3), or (4) of Subsection (a) is a state jail felony. An offense under Subdivision (6) of Subsection (a) is a Class C misdemeanor.

Added by Acts 1983, 68th Leg., p. 1610, ch. 305, § 1, eff. Sept. 1, 1983. Renumbered from § 42.111 and amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994.